

**From:** Mark Johnson MD  
**To:** Microsoft ATR  
**Date:** 1/28/02 1:58am  
**Subject:** Microsoft Penalty is Grossly Inadequate; I too have been greatly harmed!

To whom it may concern:

I feel compelled by duty to communicate my dismay and disappointment regarding the current terms of the Microsoft settlement.

Frankly, the Justice Department sold out.

After essentially a decade of similar allegations and toothless consent decrees, Microsoft has finally been conclusively proven in our nation's courts to have illegally used its monopoly power to dominate new markets. There is no question that a majority of consumers have experienced harm by Microsoft's business practices, even if most remain unaware of this harm.

Microsoft has been very successful in serially establishing its own software offerings as industry standards, which admittedly has some consumer merit. However, all along the way, better offerings from other innovative and worthy companies were destroyed or rendered utterly irrelevant in Microsoft's trademark fashion. Microsoft's office suite and web browser were "good enough", but would not have competed successfully with products from other companies (ie WordPerfect, Informix, and Netscape) had they not been so closely tied to contractual distribution obligations with the Windows operating system.

In large measure, Microsoft has removed consumer choice and often reduced discerning consumers to nothing but followers. Those who venture away from Microsoft solutions know that they run the risk of obsolescence or irrelevance. This is a very stifling revelation. We should expect to base our software purchase decisions on quality, reputation, and value. We should not be dissuaded from purchasing from a given vendor simply because they conflict with Microsoft's latest growth strategy. Look at WordPerfect, Netscape, and Apple as prominent examples of reputable companies whose loyal customers, in many cases, have been severely harmed or detracted by the anticipated consequences of Microsoft's business practices.

Too many worthy companies with innovative, quality products have been reduced to irrelevance for anyone to be justified in laying the blame on them or their management. If they are in a market that Microsoft wants, they will never win. Period. Look at Netscape's travails for a prime example.

Finally, I have one profound example of personal harm. Long before the Palm Pilot, or Microsoft's Windows CE machines were available, I

embarked on software development for Apple's Newton handheld. Several years later, just as my small company was about to release our first major solicited product, Apple showed signs that it was going to discontinue the Newton platform. Even more interesting was the fact that a business interest liked our product so much that they considered purchasing the entire Newton division from Apple, just to keep our product viable. We met with several key people at Apple under non-disclosure and, prior to terminating our discussions, were warned that we would feel intense pressure from Microsoft. We would be in their "cross-hairs" even as Netscape was at the time, and as Palm would be in the near-future. We were advised that, consequently, this would become a non-sustainable business. Three days later, Apple announced to the world that it was indeed discontinuing the Newton, which business decision likely cost me well over \$1 million. And general consumers of the Newton were left with expensive machines, but no future.

In summary, Microsoft's business tactics have greatly harmed me and have certainly harmed most consumers in general.

Please, remedy the Microsoft problem in such a way that this whole court proceeding is not similarly reduced to irrelevancy (or worse, implied endorsement.) Sadly, I fear that the terribly important points of this case were somehow lost in the change of administration and the general economic downturn of Sept. 11. Microsoft's punishment strategy was clearly to put forth delays in settlement until a sympathetic administration (or judge or settlement offer, or set of world events, etc) would surface, and this is exactly what seems to have happened. Nevertheless, a tempered (ie really punished), Microsoft would become a better corporate citizen. Healthy competition based on merit, not coercion, must be restored, in order to ultimately benefit all consumers.

Most sincerely,

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